

Hand Delivered
to Penelope Bonsall/FEC
January 31, 2002 10:00 am

THE CENTER FOR VOTING AND DEMOCRACY

January 28, 2002

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Ms. Penelope Bonsall
Director, Office of Election Administration
999 E. Street, NW
Washington, DC 20463

Dear Director Bonsall:

We would like to commend the Federal Election Commission on its recommendations for Voting System Standards (VSS). We recognize the work and detail that has gone into the development of these standards and appreciate the FEC's efforts to create the best standards possible for the nation's voting machines.

The Center for Voting and Democracy – a non-profit, non-partisan organization headed by former Member of Congress John B. Anderson – have reviewed the latest draft of the proposed Voting Systems Standards and would like to offer two suggestions for your consideration that we believe could build upon and improve the standards.

Comments

The Center for Voting and Democracy submitted comments last summer addressing the FEC's Voting Systems Standards, and now we would like to make the following recommendations to the revised Voting Systems Standards:

1. Volume I, Section 2 2.2.2.2 DRE System Standards

The Center for Voting and Democracy believes that this section about an electronic ballot image should not only apply to DRE Systems, but also to paper-based systems, such as optical scan and punchcard. We have spoken with experts in the election administration and anti-fraud fields and have found agreement for including electronic recording and storage of all ballot images within the VSS.

For example, an official who handles election crimes at the Department of Justice has told us that redundant electronic copies of each ballot image would aid his work investigating voter fraud and related problems. For example, he told us about a case in which two years after an election there was a credible allegation about software manipulation on election day, but because the paper ballots had not been maintained, there was no means to re-run the ballots. In another case in Alabama, there had been an allegation of ballots being altered between when they were initially counted and a recount. They had resorted to approaching absentee voters to compare how they had voted with how they were currently recorded; having an electronic back-up would have provided another, potentially better means to compare what happened on election day with how they ultimately were counted in a recount.

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Florida's ballot count in the 2000 presidential election underscores how electronic storage of all ballot images could also have been helpful to scholars. One article in the *Chicago Tribune* in 2001 expressed citizens' concerns about the fact that Palm Beach County had erased its electronic files that showed how each ballot had been cast. *The Tribune* noted that the ballots themselves were not destroyed, but could not accurately be recounted since they had been handled so much and possibly damaged.

We believe the anti-fraud and accountability aspects of requiring voting machines to electronically record ballot images is a strong reason for its inclusion in the VSS. Therefore, we would recommend that 2.2.2.2 DRE Systems Standards be changed to reflect "DRE and Paper-Based System Standards" which could read: "As an additional means of ensuring accuracy, ALL VOTING DEVICES shall record and retain redundant copies of the original ballot image. A ballot image is an electronic record of all votes cast by the voter on a single ballot."

We would be pleased to alert you to election specialists who support this change. One example is Trevor Potter, former chair of the Federal Elections Commission.

2. Volume I, Section 2 2.2.8 Vote Tabulating

Under this area is a listing of items that relate to various ways of voting in various states and localities. Under the proposed Voting System Standards, the [TDP] must specifically identify which of these their system can accommodate.

The Center for Voting and Democracy recommends that the [TDP] identify both what their system can accommodate *as well as cannot* accommodate. We believe that would be more useful to jurisdictions acquiring voting machines, to clarify for election administrators the machines' limitations in addition to their capacities. There is a potential middle ground for some machines where they *could* accommodate a certain item, but cannot currently do so. Other machines do not even have the potential to accommodate a certain item.

Therefore, we suggest the language be modified to include the below language (in capital letters):

There are significant variations among the election laws of the 50 states with respect to permissible ballot contents, voting options, and the associated ballot counting logic. The TDP accompanying the system shall specifically identify which of the following items *can AS WELL AS CANNOT* be accommodated by the system...

Within the FEC's listing of voting options, however, we note the omission of different electoral systems that already are used in some American jurisdictions and are under increasing consideration. For example, more than 50 jurisdictions in Texas have adopted cumulative voting in the past decade, and in Illinois, former governor Jim Edgar (R) and former Congressman Abner Mikva (D) led a task force that called for adopting cumulative voting for the state legislature. San Francisco will vote in March 2002 on whether to convert its traditional "delayed" runoff with a ranked-choice, instant runoff voting system, while a dozen states considered legislation to enact instant runoff voting -- several quite seriously.

We therefore, strongly urge inclusion of cumulative voting and ranked ballot voting within this list of items.

p. cumulative voting

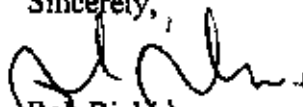
q. ranked order ballots (i.e., preference or preferential voting; choice voting; instant runoff voting).

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Attached is a listing of respected scholars, civic leaders and elected officials who support new voting equipment be required to be compatible with these voting systems and certainly would believe at a minimum that vendors reveal whether their equipment is compatible with these systems. We would be happy to offer you more information about cumulative voting and ranked balloting and where issues of how they can be used on voting equipment has been an important consideration for jurisdictions.

We at the Center for Voting and Democracy appreciate your work on these issues and are willing to assist you in any way we can. Please let us know if you have any questions about our comments. We will be following up to ensure that you received our letter and to determine if there is anything more we can do. Thank you for this opportunity to comment and for your commitment to establishing fair and useful voting system standards.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rob Richie', written over the printed name.

Rob Richie

Executive Director

Enclosures

Endorsers of Voting Equipment Compatibility with Different Electoral Systems

The following individuals are among those who have endorsed the statement: "We support requiring that all new voting equipment be compatible with the ballot types necessary for all electoral systems currently used in U.S. elections." Note that there are currently four ballot types used individually and in combination in public elections in the United States:

1. Vote for one only
2. Vote for more than one candidate
3. Voters can give more than one vote to a single candidate (cumulative voting)
4. Voters can rank candidates (instant runoff voting, choice voting)

*Organizations listed for identification purposes only

Douglas Amy, Professor of Politics, Mount Holyoke College
Theodore S. Arrington, Chair, Dept. of Political Science, University of North Carolina - Charlotte
Kathleen Barber, Professor Emerita, John Carroll University and former chair, Cuyahoga County charter commission
Harriet S. Barlow, Director, HKH Foundation
Ted Becker, Alumni Professor of Political Science, Auburn University
Medea Benjamin, Founding Director, Global Exchange
Jim Blacksher, Civil Rights Attorney, Alabama
John C. Brittain, Dean, Thurgood Marshall School of Law, Texas Southern University*
Rufus Browning, Professor of Political Science and Director Emeritus, Public Research Institute, San Francisco State University*
John Burbank, Economic Opportunity Institute*
Dennis Burke, Writer and former executive director, Arizona Common Cause
Dan Cantor, Executive Director, Working Families Party*
Steve Cheifetz, Stewart R. Mott Charitable Trust*
Steve Cobble, Former Political Director, National Rainbow Coalition
Jeff Cohen, Author and Media Critic
Robert E. Creager, Chairman, Maryland Initiative and Fair Ballot Access Committee
Derek Cressman, Democracy Program Director, National Association of State PIRGs
Ron Daniels, Executive Director, Center for Constitutional Rights
Richard DeLeon, Department of Political Science, San Francisco State University*
Lisa Disch, Associate Professor of Political Science, University of Minnesota, Twin Cities
Dave Enrich, Citizens for True Democracy
Hugh Esco, Secretary, Georgia Green Party*
Ralph Estes, Center for Advancement of Public Policy
Frances Fox-Piven, Graduate Center, City University of New York*
Mark Friedman, El Cerrito City Council
John Gibson, Common Bonds*
John Glasel, Past President, American Federation of Musicians' Local 802 (NYC)*
Ted Glick, Independent Progressive Politics Network

Endorsers (continued)

Dr. William Grover, Chair, Political Science Department at St. Michael's College
Lani Guinier, Professor, Harvard Law School
Doris "Granny D" Haddock
Dan Hamburg, Former U.S. Congressman
Ronald Hayduk, Assistant Professor of Political Science, City University of New York
Hendrik Hertzberg, senior editor, The New Yorker
Gerald Horne, Attorney, Author and Activist
Neal Jesse, Assistant Professor, Department of Political Science, Bowling Green State University*
Evelyn Jerome, past president, Los Angeles County Young Democrats
Robert Johnston, Associate Professor of History and American Studies, Yale University*
Mark P. Jones, Associate Professor, Michigan State University
Sheila Jordan, Alameda County Superintendent of Schools, Hayward, California
David Kairys, Professor of Law, Temple University*
David Dyssegaard Kallick, Fiscal Policy Institute*, New York
Randy Kehler, Alliance for Democracy*
Alex Keyssar, Professor of History, Duke University*
Jerry Arthur Knight, Judge Hubert L. Will Chapter, American Veterans Committee
David C. Korten, Author
Saul Landau, Institute for Policy Studies*
David Lawrence, Professor of Political Science, Fordham University
Kay Lawson, Professor Emeritus, San Francisco State University
Daniel Lazare, Journalist and Author, New York
Michael Lewyn, Professor, John Marshall Law School, Atlanta, Georgia
Philip Macklin, Professor Emeritus of Physics, Miami University* and
Chair, Governance Committee of Oxford, Ohio League of Women Voters*
Deborah Markowitz, Vermont Secretary of State
Craig McDonald, Texans for Public Justice
Robert McKay, McKay Foundation, San Francisco
Kevin McKeown, City Councilmember, Santa Monica, California
David F. Metzger, Faculty Emeritus, Indiana University School of Social Work
Michael Morrill, Pennsylvania Consumer Action Network
Dr. Ted Mosch, Department of Management, Marketing, and Political
Science, College of Business and Public Affairs, University of Tennessee-Martin
Jon Moscow, Co-Director, Amber Charter School, New York City
Steven Mulroy, University of Memphis Law School
Jack Nagel, Professor of Political Science, University of Pennsylvania*
Phil Tajitsu Nash, Asian American Studies Program, University of Maryland*
Krist Novoselic, President, JAMPAC, Washington state
William Peltz, Capital District Labor-Religion Coalition, Albany, New York*
Joseph G. Peschek, Political Science, Hamline University
George Pillsbury, Bostonvote* policy analyst
Lewis Pitts, Director, Advocates for Children's Services, Legal Services of North Carolina*
John Rapp, Professor of Political Science, Beloit College*
Jamin Raskin, Professor of Constitutional Law, American University*
Willie Ratcliff, Publisher, San Francisco Bay View newspaper

Endorsers (continued)

John Rensenbrink, Author
Richard Rider, President, Economy Telcom*
Joel Rogers, University of Wisconsin, Madison
Juan C. Ros, Executive Director, Libertarian Party of California*
Mark E. Rush, Associate Professor of Politics, Washington and Lee University
Paul Ryder, Ohio Citizen Action*
Donald Shaffer, Member and Board of Directors, NYCLU
Matthew Shugart, Professor of Political Science, Graduate School of International Relations and Pacific Studies, University of California, San Diego
Micah Sifry, Senior Analyst, Public Campaign*; Author
James R. Simmons, Chair, Political Science Department, University of Wisconsin-Oshkosh*
Bill Smaldone, City Councilor, Salem, Oregon
Sam Smith, Author, Washington DC
Tony Solgard, Chair, FairVote Minnesota
Bill Spelman, Associate Professor, LBJ School of Public Affairs, University of Texas; and former member, Austin City Council
Jean Stein, Editor, Grand Street Magazine*
David Stern, Stern Family Fund
Edward Still, Voting and Elections Attorney, Washington, DC
Rein Taagepera, Professor Emeritus of Political Science, University of California, Irvine
Michael Twombly, Executive Director, Northwest Democracy Institute
Father Benjamin J. Urmston, S.J., Director Peace and Justice Programs, Xavier University
Dr. Gerald R. Webster, Professor of Geography, University of Alabama*
Leonard Williams, Department of History and Political Science, Manchester College
Kathy Willingham, Macon, Georgia
Robert Winters, Harvard University Department of Mathematics*
Joseph Zimmerman, Professor of Political Science, State University of New York at Albany
Representative David Zuckerman, Vermont State House